



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 14 सितम्बर, 1985/23 भाद्रपद, 1907

हिमाचल प्रदेश सरकार

Authorised text in English version of this Department Notification No. Shiksha-II Ka(9) 1/81, Dated 25-7-1985 is hereby published under Article 348 (3) of the Constitution of India for Information of General Public.—

EDUCATION DEPARTMENT

NOTIFICATION

Shimla-2, the 25th July, 1985

No Shiksha-II Ka (9) 1/81.—Whereas, with the dissolution of the Himachal Pradesh Vidhan Sabha w.e.f. 23rd January, 1985 the term of office of S/Shri Nagin Chander Pal, Thakur Singh and Kewal Ram Chauhan, as members of the Board of School Education, Himachal Pradesh, as notified vide Notification No. Shiksha-II Ka (9) 1/81, dated the 10th August, 1982 came to an end;

2. And whereas S/Shri Prem Dass Pakhrolvi, Yogendra Chandra and Shonkia Ram Kashyap have been elected by the Himachal Pradesh Legislative Assembly from amongst its members, on 24th June, 1985 as members of the aforesaid Board.

3. Now, therefore, in exercise of the powers vested in him under sub-section (8) of section 6 of the Himachal Pradesh Board of School Education Act, 1968, the Governor of Himachal Pradesh is pleased to notify the names of the aforesaid members of the Legislative Assembly, Himachal Pradesh to be the members of the Himachal Pradesh Board of School Education, for a period of 3 years, with effect from the date of publication of this Notification in the Rajpatra Himachal Pradesh.

M. K. KAW,
Commissioner-cum-Secretary (Edu).

LABOUR DEPARTMENT

NOTIFICATIONS

Shimla-2, the 23rd July, 1985

No. 8-27/78-Shram-II.—Whereas it appears to the Governor, Himachal Pradesh that there is an industrial dispute between the Resident Engineer, Shanan Power House, Punjab State Electricity Board, Jogindernagar and three ex-Beldars namely S/Shri Amar Singh, Piar Chand and Puran Chand.

And whereas after considering the report of the Conciliation Officer-cum-Distt. Employment Officer, Mandi under section 12 (4) of the Industrial Disputes Act, 1947 the Governor, Himachal Pradesh is satisfied that the matter may be referred to the Labour Court, Himachal Pradesh, Shimla for adjudication.

Now, therefore, the Governor, Himachal Pradesh in exercise of the powers vested in him under section 12(5) read with section 10 of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) hereby refer this matter to the H.P. Labour Court Shimla, constituted under section 7 of the Industrial Disputes Act, 1947 for adjudication as under:—

“Whether the termination of services of S/Shri Amar Singh, Piar Chand and Puran Chand Beldars is justified and in order. If not, what relief and amount of compensation these Beldars of the Shanan Power House, Joginder Nagar are entitled?”

Shimla-2, the 24th July, 1985

No. 2-8/83-Lab (Dup).—In exercise of the powers vested in him under section 17 (1) of the Industrial Disputes Act 1947, the Governor, Himachal Pradesh is pleased to publish the award of the Presiding Officer, Labour Court, Shimla relating to case No. 64/82 (Sh. Vijay Kumar Versus Management of M/s Auto Ancillaries Parwanoo) in the Official Gazette as per annexure “A”. attached.

By order,
O. P. YADAV,
Commissioner-cum-Secretary.

ANNEXURE "A"

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH
SHIMLA-171002

Case No. 64/82

Shri Vijay Kumar
Auto Ancilliary Ltd.
Management Parwanoo

Versus

.. Petitioner
.. Respondent

Shri P. L. Bery AR of the petitioner along with Vijay Kumar petitioner in person.
Shri V. K. Gupta AR of the respondent.

AWARD:

Vide Notification No. 8-27/78-Shram dated 24-9-1982 the following question has been referred to this Court by the Government.

"Whether the termination of the services of Shri Vijay Kumar employee of the respondent management (Auto Ancilliary Ltd. Parwanoo) is justifiable in accordance with the law and rules if not to what amount and to what relief Shri Vijay Kumar is entitled to from the respondent management."

Notices were issued to the parties Shri Vijay Kumar claimant has filed his claim petition and has challenged the termination of his services. According to him he was appointed by the respondent management as Operator Trainee *w.e.f.* 18-9-1980. He continued working with the respondent management as an operator Trainee independently and attended to his duties. According to the terms of his appointment he was to be confirmed and regularly appointed after the expiry of one year but it was not done and his period of probation was extended for three months *vide* letter dated 4-9-1981 which was delivered to him on 29-10-1981 along with the letter terminating his services. He has further stated that he met with an accident in the premises of the factory on 22-8-1981 and because of this he lost high hand finger and remained on leave for the purpose of treatment. According to him when he returned and wanted to join his duties. He was not permitted to do so and his services were terminated. He has prayed that the order of termination of his services dated 15-12-1981 be declared illegal void and without jurisdiction and he be directed to be appointed as an Operator Trainee *w.e.f.* 15-12-1981 with all the service benefits and the back wages be paid to him.

The respondent management has resisted this claim petition and filed a reply and have stated that the petitioner was appointed on probation and that he was only taken in as a trainee with the clear stipulation that if his performance was not up to the mark the period of training could be extended and in case he completes the training period successfully he would be appointed as an operator. it has further been stated that the training period had been extended by three months but inspite of the extension performance of the petitioner was not upto the mark and his training was dispensed and that the termination of services of the petitioner was effected.

From the averments of the parties the following issue arose and were framed on 14-5-1983.

1. Whether the termination of the services of the petitioner is unjustified illegal. If so its effect? (OPP).
2. Whether the petitioner was appointed as a trainee and his period of training has been extended in accordance with the terms and condition of appointment of the letter. If so its effect? (OPP).
3. Relief.

FINDINGS

Issue No. 1 & 2.—Both these issues are interconnected and may be taken together for the sake of convenience. In support of his claim the petitioner has appeared as PW-1 and has examined Shri Shiv Kumar PW-2. He has tendered in evidence documents Ex. P-1 to Ex P-4.

The respondent management has examined Shri Vijay Kumar Bhalla, PW-1 and Sudharthan Numbiar, RW-2 and has tendered in evidence documents Ex. R-1 to Ex. R-9.

Shri Vijay Kumar Petitioner as PW-1 has stated that he was trained at I.T.I. Saharanpur for two years and that he did not join the training with the respondent management and that he was appointed as Operator Trainee on probation for one year vide letter Ex P-1 and he joined the services on 19-9-1980 and continued working independently and he was never on training with the respondent for any such training was imparted to him by the respondent management. He has further stated that he enjoyed the benefits of leave as if he was a regular employee. He was also allowed sick leave to which a regular employee is entitled. He has further stated that he met with an accident inside the factory and lost his finger on 22-8-1981 and has to proceed on leave. He claimed compensation for the injuries received and this claim was settled by the Commissioner under the Workmen compensation Act. He has stated that the respondent management feels offended because of the claim being filed by the petitioner and have illegally terminated his services. Shri Shiv Kumar PW-2 was also employed as a Fitter with the respondent management. He has stated that the petitioner was not an apprentice and he was used to work independently on a machine.

The first question to be determined is as to whether the petitioner is a workman or not. If he is deemed to be a workman his services cannot be terminated, otherwise than in due process of law. The letter of appointment Ex. P. 1 is material for this purpose. The petitioner was appointed as Operator Trainee for a period of one year. This period could be extended for a period of three months at a time subject to maximum period of six months. On his completion of the training he had a chance to be employed as an Operator trainee on regular basis. During his period of training the petitioner was to be paid a sum of Rs. 250/- per month.

According to the definition, every person employed in an industry to do any skilled, unskilled, manual, supervisory, technical or clerical work for hire or reward is a workman, the definition does not state that a person, in order to be a workman, should have been employed in a substantive capacity or on temporary basis regular basis or on probation basis. The matter would not be different if a workman is employed on Daily Wages or even on Musterroll basis. Thus if a person is employed in an Industry for hire or reward, unless his case comes under clauses (i) to (iv) of sub-section 2(a). The letter of appointment Ex. P-1 shows that the Petitioner is employed as Operator Trainee. The employment is for doing manual work and on a fixed wages. The circumstances that on employment the petitioner was to be an apprentice or an Operator Trainee and after the period of the training he was to be considered for appointment on regular basis. All these do not mitigate against his status as a workman. The definition of workman in sub-section 2(s) may be seen. Even an apprentice who joins an industry for a limited period to undergo training, on payment of some stipend or remuneration, is also covered by this definition.

The respondent have not also contested that Ex. P-1 is the letter of appointment of the petitioner. From the examination of this letter and also from the definition given in sub-section 2 (s) and the objection made above I am of the clear view that the petitioner is a workman employed in the industry being run by the respondent management.

The next question to be determined is as to whether the termination of the services of the petitioner are in accordance with law or not. It is an admitted case of both the parties that petitioner had been working for more than a year and that he met with an accident and that he availed leave and that when he returned from leave, his services were terminated and he was not asked to join. It is also admitted case that the petitioner was allowed full compensation under the Workman Compensation Act. It is also admitted case of the parties that the petitioner continued in service for more than a year with the respondent management. The period of his training according to the Respondent had been extended beyond a period of one year. According to the respondent at Page-2 of their reply the period of training was extended because the work of the petitioner was not satisfactory. The following para is extracted from the "It is denied that the work of petitioner as a trainee was satisfactory, as alleged. The management maintains appraisal report of its trainees. The reports are taken at the interval of six months during training period. The first appraisal report dated 1-6-81 clearly shows that his performance was below average. Another appraisal report dated 20-8-1981 showed that his activities were 'below average'. In no column, he was categorised 'good' or 'excellent'.

The respondent had not brought any Appraisal Report on record as stated herein above. The only appraisal report brought in record, as Ex. P-9. The perusal of this report shows that it was not written on 17-11-1981, when it purports to have been signed. The date 17-11-1981 does not appear to be a correct date. The figure '11' appears to be interpolated. Something is written which has been converted into '11'. The reasons are not known nor these reasons have been explained during arguments by the Authorised Representatives of the respondent. In fact there is no appraisal report which has been brought on record to show that the work of the petitioner was not satisfactory. The respondent management had examined Shri Vijay Kumar Bhalla, RW-1. He is the Assistant Manager and is also the Author of report Ex. P-9. He had joined the services of the respondent management on 6-9-1981. It is not believable as to how he can judge the quality of the work of petitioner who had been employed in Sept. 1980. The appraisal report or the evaluation of the work of the petitioner by Shri Vijay Kumar Bhalla PW-1 is in fact not the correct assessment. The other witness Shri Sudharthan Nambiar RW-2 has not evaluated the work of the petitioner. He has only stated that the petitioner joined services on the basis of the letter Ex. P-1. According to him the trainees are not workman. He could not contradict the suggestions that the petitioner used to operate the machine himself because he is not aware of the actual work inside the factory.

From the evidence led by the parties I find no justification for the termination of the Services of the petitioner. His services could be terminated only by following the procedure as provided for under section 25F/ 25FFF. This termination of the services of the petitioner is retrenchment pure and simple. This retrenchment is not valid. The termination is therefore not justifiable.

The documents Ex. R-1 Ex. R-6 and Ex. R-8 are not helpful at all in these cases. These relates to one Shri Shiv Kumar who has appeared as PW-2. These documents have nothing to do with the termination of the services of the petitioner.

I, view of these considerations I hold that the termination of the services of petitioner is not justified and illegal. I further hold that the petitioner was a workman although he was appointed as trainee and his training period had been extended. The appointment of the Petitioner *vide* letter Ex. P-1 is his appointment as a workman. I decide both these issues in favour of the Petitioner and against the respondent.

RELIEF

To conclude, the termination of the services of the petitioner by the Respondent on 15-12-81 cannot be justified. The termination is not in accordance with the provisions of the Industrial

FINDINGS.

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RELIEF

To conclude, the termination of the services of the petitioner by the Respondent on 15-12-81 cannot be justified. The termination is not in accordance with the provisions of the Industrial

Disputes Act and it is quashed and set aside. The petitioner will be deemed to be in service inspite of this termination. He is entitled to be re-instated w.e.f. 15-12-1981. He will be deemed to be in continuous service and is entitled to all the back wages as were being paid to him in accordance with the letter of appointment Ex. P-1. The Respondent Management will allow the petitioner to have to all the benefits of his continuous service from the date of appointment. The parties are, however, left to bear their own costs. Let this award be published in the Rajpatra.

Announced.
21-1-1985.

Sd/-
Presiding Officer,
Labour Court, Shimla,
Camp at Una. 21-1-1985.

पंचायती राज विभाग

कार्यालय आदेश

शिमला-171002, 14 अगस्त, 1985

संख्या पी0सी0एच0-एच0 (ए) (5)-75/78.—क्योंकि श्री गढ़क सिंह को भारतीय दण्ड संहिता की धारा 304/109 के अन्तर्गत हत्याकाण्ड के मामलों में संलिप्त होने के कारण जिलाधीश हमीरपुर ने अपने आदेश संख्या पंच (4) 44/77, दिनांक 6 सितम्बर, 1983 के अन्तर्गत ग्राम पंचायत दन्धवी के प्रधान के पद से निलम्बित कर दिया था।

और क्योंकि श्री गढ़क सिंह ने उक्त निलम्बन के विरुद्ध अपील की थी कि उसे सत्र न्यायाधीश हमीरपुर के न्यायालय ने दिनांक 23-12-84 के आदेशों के अन्तर्गत इस मामले में उसे बरी कर दिया है जिसके दृष्टिगत उसे प्रधान पद पर बहाल किया जाये। और क्योंकि इस अपील पर विचार करने के बाद सरकार इस निष्कर्ष पर पहुँची है कि श्री गढ़क सिंह इस मामले में निर्दोष है।

अतः राज्यपाल हिमाचल प्रदेश उन शक्तियों के अधीन जो कि उन्हें हिमाचल प्रदेश पंचायती राज अधिनियम 1968 की धारा 54 (4) में प्राप्त है श्री गढ़क सिंह प्रधान के उपरोक्त निलम्बन आदेशों को समाप्त करने का सहर्ष आदेश देते हैं।

आदेश द्वारा,
हस्ताक्षरित/-
सचिव।

कारण बताओ नोटिस

शिमला-171002, 14 अगस्त, 1985

संख्या पी0सी0एच0-एच0ए0 (5) 3/85.—क्योंकि श्री बाल कृष्ण प्रधान ग्राम पंचायत राहण, जिला कुल्लू, राहण ग्राम में बनी लरदा कुहल पर हुए खर्च के दुहायों में संलिप्त लगे हैं।

और क्योंकि श्री बाल कृष्ण के उक्त कृत्य के दृष्टिगत उसे प्रधान पद से निलम्बित किया जाना अन-
हितार्थ होगा क्योंकि उनके खिलाफ यह मामला पुलिस में दर्ज हो रहा है।

अतः राज्यपाल, हिमाचल प्रदेश उक्त श्री बाल कृष्ण प्रधान ग्राम पंचायत राहण को हिमाचल प्रदेश
ग्राम पंचायत नियम, 1971 के नियम 77 के अन्तर्गत कारण बताओ नोटिस देते हैं कि क्यों न उन्हें हिमाचल
प्रदेश पंचायती राज अधिनियम, 1968 की धारा 54(1) के अन्तर्गत ग्राम पंचायत राहण के प्रधान पद से
निलम्बित कर दिया जाए। श्री बाल कृष्ण प्रधान का उत्तर इस नोटिस की प्राप्ति के 15 दिनों के भीतर-भीतर
जिलाधीश कुल्लू के कार्यालय में पहुंच जाना चाहिए, अन्यथा यह समझा जाएगा कि वह अपने पक्ष में कुछ कहना
नहीं चाहते।

हस्ताक्षरित/-
अवर सचिव।

ELECTION DEPARTMENT

NOTIFICATION

Shimla-171002, the 3rd August, 1985

No. 3-15/85-ELN.—The Election Commission of India's notification No. 56/84-XIV, dated the 1st July, 1985 along with its Hindi version, is hereby re-published for general information.

By order,
Sd/-
Chief Electoral Officer,
Himachal Pradesh.

ELECTION COMMISSION OF INDIA

New Delhi, the 1st July, 1985
Asadha 10, 1907(S)

NOTIFICATION

S.O. Whereas the Election Commission is satisfied that as a result of its poll performance at the general election to the House of the People from the Union Territory of Goa, Daman and Diu and the Legislative Assembly of the said Union Territory, held in December, 1984, the Goa Congress is entitled for registration and recognition as a State Party in the Union Territory of Goa, Daman and Diu in terms of paragraph 3 and 6 of the Election Symbols (Reservation and allotment) Order, 1968;

And Whereas the Commission has decided to recognise the Goa Congress as a State Party in the above Union Territory, and reserve the election symbol 'two leaves' for the said party in that Union Territory;

Now, therefore, in pursuance of clause (b) and (d) of sub-paragraph (1) and sub-paragraph (2) of paragraph 17 of the said Symbols Order, the Election Commission hereby makes the following amendments in its notification No. 56/84-I, dated the 13th November, 1984, published in the Gazette of India, Extraordinary, Part II, Section 3(iii) dated the 16th November, 1984, as amended from time to time, namely:—

(1) In Table 2 of the said notification against the Union Territory of Goa, Daman and Diu

specified under column 1 of the Table, for the entry 'Maharashtrawadi Gomantak.....Lion' specified in columns 2 and 3, the following entries shall be substituted:—

- | | |
|------------------------------|-----------------|
| "1. Goa Congress | .. Two leaves". |
| "2. Maharashtrawadi Gomantak | .. Lion" |

- (2) In Table 4 of the said notification, against the Union territory of Goa, Daman and Diu mentioned in column 1 thereof, the entry "20. Two leaves" specified in column 2 thereof shall be deleted.

The recognition granted to the above party is subject to the following conditions:—

- (i) the party shall communicate to the Commission without delay any change in its name, head office office-bearers, address of Office-bearers and political principles, policies, aims and objects and any change in any other material matters;
- (ii) the party shall intimate the Commission immediately whenever any amendments are issued to party constitution along with the relevant documents like the notice for the meeting, to consider amendments, agenda for the meeting, minutes of the meeting where the amendments have been carried, etc.
- (iii) the party shall maintain all the records like minutes book, account books, membership registers, receipt books etc., properly;
- (iv) the said records shall be open for inspection at any time by the authorised representative(s) of the Commission; and
- (v) the recognition granted shall be reviewed by the Commission from time to time.

[56/84-XIV]

By order,
R. P. BHALLA,
Secretary.

भारत निर्वाचन आयोग

नई दिल्ली,
1 जुलाई, 1985

10 आषाढ़, 1907 (शक)

अधिसूचना

क्र० प्र०.—भारत निर्वाचन आयोग का यह समाधान हो गया है कि निर्वाचन प्रतीक (आरक्षण और आबंटन) आदेश, 1988 के पैरा 3 तथा 6 के अनुसार गोवा कांग्रेस, गोवा, वमण और दीव संघ राज्य क्षेत्र से लोक सभा के लिए दिसम्बर, 1984 में हुए साधारण निर्वाचन तथा उक्त संघ राज्य क्षेत्र के विधान सभा निर्वाचन में प्राप्त किए गए अपने मतों के परिणाम स्वरूप गोवा, दमन और दीव संघ राज्य क्षेत्र में एक राज्यायित दल के रूप में पंजीकरण तथा मान्यता प्राप्त करने के लिए हकदार है ;

और आयोग ने गोवा कांग्रेस को उक्त संघ राज्य क्षेत्र में एक राज्यायित दल के रूप में मान्यता देने और संघ राज्य क्षेत्र में उक्त दल के लिए "दो पत्तियाँ" निर्वाचन-प्रतीक आरक्षित करने का निर्णय लिया है ;

अतः, अब, निर्वाचन आयोग, उक्त आदेश के पैरा 17 के उप-पैरा (1) के खण्ड (ख) तथा (घ) और उप-पैरा (2) के अनुसरण में भारत के राजपत्र, असाधारण, भाग 2, खण्ड 3(III), दिनांक 16 नवम्बर, 1984 में

प्रकाशित और समय-समय पर यथा-संगोषित अगती अधिसूचना संख्या 56/84-1, दिनांक 13 नवम्बर, 1984 में एतद्द्वारा निम्नलिखित संशोधन करता है अर्थात्:—

- (1) उक्त अधिसूचना की सारणी 2 में, सारणी के स्तम्भ 1 में के अन्तर्गत विनिर्दिष्ट गोवा, दमन और दीव संघ राज्य क्षेत्र के सामने, स्तम्भ 2 तथा 3 में वर्णित प्रविष्टि “महाराष्ट्रवादी गोमांतकशेर” के स्थान पर निम्नलिखित प्रविष्टियां प्रतिस्थापित की जायेंगी:—

“1. गोवा कांग्रेस.....दो पत्तियां”

“2. महाराष्ट्रवादी गोमांतक.....शेर”

- (1) उक्त अधिसूचना की सारणी 4 में, स्तम्भ 1 में वर्णित गोवा, दमन और दीव संघ राज्य क्षेत्र के सामने उक्त सारणी के स्तम्भ 2 में वर्णित प्रविष्टि “20-दो पत्तियां” हटा दी जायेगी ।

उपर्युक्त दल को प्रदत्त मान्यता निम्नलिखित शर्तों के अध्वधीन है:—

- (1) दल, बिना देरी किए निर्वाचन आयोग को अपने नाम, मुख्यालय, पदाधिकारी, पदाधिकास्थियों के पते और राजनैतिक सिद्धांतों, नीतियों, लक्ष्यों और उद्देश्यों में किसी प्रकार के परिवर्तन तथा किसी अन्य महत्वपूर्ण मामले में किसी प्रकार के परिवर्तन के बारे में सूचित करेगा;
- (2) दल, जब कभी दल के विधान में किसी प्रकार का परिवर्तन करता है तो उसकी सूचना सुसंगत दस्तावेजों जैसे संशोधनों पर विचारार्थ बैठक की सूचना, बैठक के लिए कार्यसूची, उस बैठक का कार्यवृत्त जिसमें संशोधन किए गए, आदि के साथ तत्काल निर्वाचन आयोग को सूचित करेगा ;
- (3) दल सभी अभिलेखों जैसे कार्यवृत्त पुस्तकों, लेखा-बहियों, सदस्यता रजिस्ट्रों, रसीद बहियों आदि का समुचित रूप से रख-रखाव करेगा ;
- (4) निर्वाचन आयोग के प्राधिकृत प्रतिनिधियों द्वारा उक्त अभिलेखों का किसी भी समय निरीक्षण किया जा सकेगा ; और
- (5) निर्वाचन आयोग द्वारा दी गई मान्यता का समय-समय पर पुनरावलोकन किया जायेगा ।

(संख्या 56/84-14)

आदेश से,

आर० पी० भल्ला,

सचिव ।

